

**United States District Court
for the
Northern District of New York
Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Abraham Whaley Case Number: 5:99CR00055-007

Name of Sentencing Judicial Officer: Honorable Frederick J. Scullin, Jr., Senior U.S. District Judge

Date of Original Sentence: March 9, 2000

Original Offense: 1. Conspiracy to Possess With Intent to Distribute Cocaine and Cocaine Base,
21 U.S.C. § 846
2. Violation of Supervised Release: Failure to Report for Urinalysis Testing on
5/27/03 and 8/25/03

Original Sentence: 1. 3/9/00: 30 Months Imprisonment, 3 Years Supervised Release
2. 1/7/04: Time Served, 36 Months Supervised Release

Type of Supervision: Supervised Release Date Supervision Commenced: January 7, 2004

Asst. U.S. Attorney: John G. Duncan Defense Attorney: Lisa Peebles

PETITIONING THE COURT

☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number Nature of Noncompliance

1. General Condition #1: While on supervised release, you shall not commit another Federal, state, or local crime: On April 20, 2006, the defendant was arrested by the Auburn Police Department and charged with Driving While Intoxicated, and Operating Motor Vehicle Intoxicated, both Unclassified Misdemeanors, Unlicensed Driver, and Failure to Keep Right, both Traffic Infractions. As the police report indicates, authorities observed the defendant's vehicle traveling at a low rate of speed with the hazard lights on. The vehicle also had a flat tire. Next, the vehicle crossed over into the northbound lane while traveling southbound. Upon stopping the vehicle, authorities indicated an odor of alcohol was coming from the defendant. A field sobriety test was conducted which revealed the defendant's blood alcohol content was .08%. These charges are currently pending in Auburn City Court. This information is based on police reports obtained from the Auburn Police Department.
(Grade C Violation)
2. Standard Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician: On February 23, 2005, the defendant submitted to urinalysis which resulted in a positive test result for marijuana. The defendant also attempted to adulterate his urine by flushing his system with excessive amounts of liquid. On February 23, 2005, Whaley admitted to using marijuana

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on February 21, 2005, with friends. This information is based on laboratory results confirming the test result and a verbal admission made by the defendant to the probation office. (Grade C Violation)

3. Standard Condition#7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician: On May 10, 2005, the defendant's counselor at Syracuse Behavioral Healthcare, Syracuse, New York smelled alcohol on his breath and immediately breathalyzed him. According to the counselor, a breathalyzer test indicated a blood alcohol content between .02% and .03% at 9:30 a.m. This information is based on the personal knowledge of the probation officer. (Grade C Violation)
4. Standard Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician: On June 11, 2005, the defendant reported to the Federal Building for a weekend drug test under the influence of alcohol. A breathalyser test indicated a blood alcohol content of .044% at 8:30 a.m. Whaley was verbally reprimanded for his alcohol use. He was reminded of the guidelines for outpatient substance abuse treatment which is no alcohol use. Whaley stated he was aware of this guideline, but decided to drink anyway. This information is based on a breathalyzer test administered by the probation office and a verbal admission made by the defendant to the probation officer. (Grade C Violation)
5. Standard Condition #11: The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer: On April 26, 2006, Whaley was confronted about his failure to notify this office within 72 hours about his police contact. Whaley admitted he was drinking and driving in Auburn, New York on April 20, 2006, because of stress related to a family member's illness. This information is based on a verbal admission made by the defendant to the probation officer. (Grade C Violation)

U.S. Probation Officer Recommendation:

The term of supervision should be:

- ☒ Revoked
☐ Extended for _____ year(s), for a total term of _____ years.

☐ The conditions of supervision should be modified as follows:

Respectfully submitted,

PAUL W. DeFELICE
 Chief U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 11, 2006

Approved by:



LORI ALBRIGHT
 Supervising U.S. Probation Officer

by:



GENEVIÈVE V. DeBLOIS
 U.S. Probation Officer

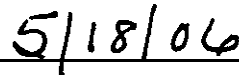
THE COURT ORDERS

- ☐ ~~No Action~~
☒ **The Issuance of a Summons**
☐ Other
☐ The Issuance of a Warrant. This petition and all documents attached hereto are **SEALED** until such time as the warrant generated by this petition is returned executed.

The District Court Clerk's Office is hereby **ORDERED NOT** to serve a copy of this petition or any of the attached documents upon anyone EXCEPT that a copy is to be served upon law enforcement personnel. Copies shall be served upon the unsealing of the petition.



Signature of Judicial Officer



Date